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Application No.: 09/920,689Case No.: 56240US003

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**Remarks**

Claims 1 – 85 and 87 – 108 are pending. Claims 4, 7, and 37 have been cancelled. Claims 6, 9 – 11, 21, 25, 31 – 34, 36, 39, 40, 42 – 84, and 93 - 108 have been withdrawn from consideration. Claims 1, 27, and 85 are currently amended.

**§ 112 Rejections**

Claims 7 and 37 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 7 and 37 have been cancelled, rendering the above rejection moot. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

**§ 102 Rejections**

Claims 1-3, 5, 7, 13-19, 22-24, 26-29, 30, and 41 were rejected under 35 USC § 102(a) as being anticipated by or, in the alternative, under 35 USC § 103(a) as being obvious over Stoddart et al. (WO 00/51724). The Patent Office submits in part that: Stoddart et al. utilize the instant inorganic particles which are impregnated with actives.

Applicants' invention as now claimed are particles comprising an inorganic matrix and a composition comprising a structure directing agent and an active agent, wherein the active agent comprises a pheromone and wherein the inorganic matrix is formed in the presence of the composition.

Stoddart et al. disclose inorganic molecular sieve having an active agent impregnated therein. Stoddart et al. do not disclose or suggest the combination of an active agent and structure directing agent within an inorganic matrix.

Stoddart et al. also do not disclose or suggest an inorganic matrix being formed in the presence of an organic structure directing agent and a pheromone. This is because molecular sieve is made by first using an organic templating agent to condense the inorganic matrix, then removing the organic templating agent through heating. For at least these reasons, Stoddart et al. do not

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anticipate or render obvious the claimed invention. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

Claims 1, 5, 7, 8, 12, 13, 20, 26, 27, 29, 30, 35, 37, 38, 41, 85, 87, 88, 91, and 92 were rejected under 35 USC § 102(b) as being anticipated by Nagura et al. (EP 0 131 783 A1).

The Patent Office submits in part that: Nagura et al. disclose particles of inorganic matrices on a polymeric vehicle contain the instant pheromones, surfactant and latexes (sic).

Nagura et al. disclose agglomerations of pheromone, inert carrier material, and a binder material. The materials are mixed and blended until the pheromone is adsorbed onto the inert carrier. These agglomerations are then coated with a film-forming polymeric material that optionally may contain inorganic powder such as silicic acid, silicates, or talc. Once the agglomerates are made, the agglomerates are granulated or reduced in size (page 15, line 2).

Nagura et al. do not disclose or suggest the use of an organic structure-directing agent in combination with an active agent. Nagura et al. do not disclose the presence of the organic structure-directing agent and the active agent during the formation of an inorganic matrix. Nagura et al. also do not disclose or suggest an inorganic matrix having channels. Nagura et al. could not contemplate channels as Nagura et al. do not contemplate making inorganic particles using at least a structure-directing agent.

For at least these reasons, Nagura et al. do not anticipate the claimed invention. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

### § 103 Rejections

Claims 1-3, 5, 7, 8, 13-20, 22-24, 26-30, 41, 85, 87, 90, and 92 were rejected under 35 USC § 103(a) as being unpatentable over Stoddart et al. in view of Stucky et al. (WO 99/37705) and Ohno (US 4,579,779). The Patent Office submits in part that: Stoddart et al. show incorporation of vaporous actives in particles of inorganic channeled matrices, but does not fully detail how the matrices materials are prepared; Stucky does; the silica forms used by Stucky, prepared by incorporation of surfactant into the silica composition to produce particles (sic).

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Stoddart et al. has been discussed above. Stucky et al. disclose methods of making templated particles using amphiphilic block polymers as the structure directing agent. Ohno discloses mixing organic liquids with silica for controlled release of the liquid.

Applicants respectfully traverse the above rejection because the Patent Office has failed to make a *prima facie* case of obviousness in the above rejection. To make a *prima facie* case of obviousness, the cited references in combination must (1) contain some suggestion or motivation to combine the references, (2) provide some reasonable expectation of success as determined by the skilled artisan, and (3) teach or fairly suggest all of the claimed limitations of the invention.

None of the references provide the requisite motivation. Both Stoddart et al. and Ohno describe post-particle-formation incorporation of active agent. Stucky et al. disclose only the use of certain structure directing agents to make particles and do not contemplate incorporation of active agents either before or after formation of the particle. Thus, none of the references provide the requisite motivation.

None of the references provide a reasonable expectation of success as none of the references individually or in combination contemplate formation of the particle in the presence of active and structure-directing agents. None of the references disclose or suggest a combination of active agent with a structure-directing agent for incorporation post particle formation. Because such a structure was not contemplated, no reasonable expectation of success that a combination of active agent and structure-directing agent could be present during the formation of the particle can be present.

For at least these reasons, the above combinations of references do not provide the requisite motivation of expectation of success. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

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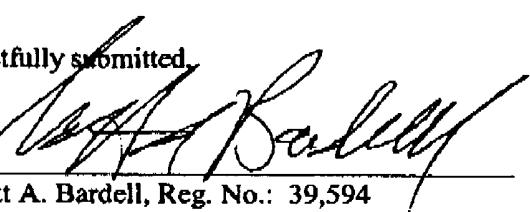
In view of the above, it is submitted that the application is in condition for allowance.  
Reconsideration of the application is requested.

Allowance of claims 1 – 3, 5, 6, 8 – 36, 38 – 85, and 87 - 108, as amended, at an early date is solicited.

July 20, 2004  
Date

Respectfully submitted,

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